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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/560,931

12/15/2005

Toshiharu Miyai

MIYAI 2

4352

1444 7590 10/02/2008
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EXAMINER

GWARTNEY, ELIZABETH A

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

10/02/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/560,931	Applicant(s) MIYAI ET AL.	
	Examiner Elizabeth Gwartney	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20060314;20070223</u> . | 6) <input type="checkbox"/> Other: ____. |

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Corriveau et al. (US 2004/0043134).

Regarding claims 1-3, Corriveau et al. disclose a rolled edible thin film composition which comprises sucralose and pullulan ([0082],[0092], [0102]/Ex.3).

Regarding claim 4, Corriveau et al. disclose all of the claim limitations as set forth above. Corriveau et al. also disclose that the composition comprises 40 parts by weight of pullulan to 1 part by weight sucralose ([0102]/Ex.3).

Regarding claim 5, Corriveau et al. disclose all of the claim limitations as set forth above. Further, Corriveau et al. disclose as polysaccharides, a combination of pullulan and carrageenan ([0102]/Ex.3).

Regarding claims 6 and 9-10, Corriveau et al. disclose all of the claim limitations as set forth above and that the composition further comprises flavoring ([0088]), high intensity sweeteners besides sucralose ([0092]), sugar alcohols ([0091]), emulsifiers ([0089]) and fillers ([0084]). Further, Corriveau et al. disclose that the sweetener with high sweetness is aspartame

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([0102]/Ex.3) and the flavor is one or more selected from the group consisting of lemon, mint, orange and rose ([0088], [0102]).

Regarding claims 7-8, Corriveau et al. disclose all of the claim limitations as set forth above but do not explicitly disclose that the composition dissolves in one liter of 20°C water within 100 seconds when 0.1 g of which is soaked therein and then macroscopically observed while allowing to stand or which has a tensile strength of at least 450 gf when determined according to the method in “JIS Z 1707:1997” of Japanese Industrial Standards under the conditions of a temperature of 20°C, relative humidity of 50% tensile speed of 50 mm/min, and using a test sample 15 mm wide. Given that Corriveau et al. disclose a sweet film composition identical to that presently claimed, it is clear that the film would inherently display the recited properties.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Barkalow et al. (US 2004/00965569) teach a thin edible film composition comprising pullulan and sucrose. Barkalow et al. does not disclose the ratio of pullulan to sucralose.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth Gwartney whose telephone number is (571) 270-3874. The examiner can normally be reached on Monday - Thursday; 7:30AM - 5:00PM EST, working alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Callie Shosho can be reached on (571) 272-1123. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/E. G./

Examiner, Art Unit 1794

/Callie E. Shosho/

Supervisory Patent Examiner, Art Unit 1794